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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) NetSuite 709 (formerly NetLedge 701)	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>March 29, 2009</u> Signature <u>Robert Moll</u> Typed or printed <u>Robert Moll</u> name _____		Application Number <u>10/071,496</u>	Filed <u>March 1, 2002</u>
		First Named Inventor <u>Brian Chess</u>	
		Art Unit <u>2157</u>	Examiner <u>Avi M. Gold</u>
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the		<u>Robert Moll</u> Signature	
<input type="checkbox"/> applicant/inventor.		Robert Moll Typed or printed name	
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)		850-567-9153 Telephone number	
<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>33,741</u>		March 29, 2009 Date	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____			
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
<input checked="" type="checkbox"/> *Total of <u>One</u> forms are submitted.			

This collection of information is required by 38 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 38 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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US Application No. 10/071,498

**PRE-APPEAL BRIEF REQUEST FOR REVIEW ARGUMENTS**

**The invention relates to client-side caching systems and methods that reduce page latency and bandwidth usage of Internet based and web applications.**

**In an embodiment, a server computes a cookie value based on the last version of a resource (e.g. a web page). When an application user uses a browser to request a page from the server, the server responds with a small non-displayed page and a client-side script. The client-side script appends the cookie value to the original request and the browser automatically re-requests the page with the appended cookie value. If the most recent version of the page is in the browser cache, the browser gets a cache hit, which means the page is retrieved from the browser cache rather than from the server, rapidly displaying the page to the user. If, on the other hand, there is only an older version of the page in the browser cache, there is a cache miss (because the client-side's rewritten request will not match any request in the browser cache) and the browser will send the request to the server to retrieve the most recent version of the page.**

**Claim 1 recites a client-side caching system, comprising:**

**a client for issuing a request based on user selection for a resource on a server; and**

**a server for sending a response including a cookie and a client-side script to the client, wherein the cookie value represents the last version of the resource, and the client-side script appends the cookie value to the request for a resource such that the client automatically re-requests the resource with the appended cookie value so that if the most recent version of the resource is in the client cache, the resource is retrieved from the client cache rather than from the server, and if not, the resource is retrieved from the server.**

**In sections 1-2, the Office action rejects claims 1-18 as being unpatentable over U.S. Patent No. 6,510,439 B1 to Rangarajan et al. (Rangarajan) and U.S. Patent Publication No. 2002/0032701 to Gao et al. (Gao).**

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1 Specifically, the Office action on pages 2-3 asserts (1) Rangarajan teaches a  
2 client-side caching system except a client-side script that automatically re-  
3 requests a resource, (2) Gao teaches a client-side script that automatically  
4 requests updated data, and (3) it would have been obvious to one of ordinary skill  
5 at the time of the invention to modify Rangarajan in view of Gao to use a client-  
6 side script that automatically re-requests a resource. One would be motivated to  
7 do so because it is more efficient for the script to run on the client.

8 Rangarajan and Gao cannot establish a prima facie case of obviousness, because  
9 they fail to disclose the client-side script function recited in claim 1:  
10

11 1) Claim 1 requires a client-side script function that appends the cookie  
12 value to the request for a resource such that the client automatically re-requests  
13 the resource with the appended cookie value so that if the most recent version of  
14 the resource is in the client cache, the resource is retrieved from the client cache  
15 rather than from the server, and if not, the resource is retrieved from the server.

16 2) The Office action concedes that: "Rangarajan fails to teach the  
17 limitation further including the use of client-side script that automatically re-  
18 requests a resource" (See page 3, paragraph 3).  
19

20 3) However, on page 3, paragraph 4, the Office action asserts this  
21 missing limitation is disclosed by Gao (paragraph 0047).  
22

23 4) However, Gao fails to disclose it (See Gao paragraphs 0045-0051). As  
24 shown in Figure 5, a client 102 sends a request for a web page to the web server  
25 104 (entry "1"), the web server returns an HTML file to the client (entry "2"), the  
26 client displays the file and requests additional files (e.g. images)(entry "3"), the  
27 web server returns the requested files and generates a Javascript file that will  
28 cause the client's browsers to generate a request for update data (entry "4").

29 5) Gao states: "When the JavaScript code is received, it will be  
30 automatically interpreted by the browser, which will cause the script program to

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1 be executed by the browser. In accordance with the invention, the JavaScript  
2 code will cause the browser to request another page, for a second Web page.  
3 This operation is represented by the fifth entry of FIG. 5, "5. RECEIVE SCRIPT,  
4 INTERPRET CODE, REQUEST UPDATE PAGE." The JavaScript code in  
5 accordance with the invention specifies that the requested second page will not  
6 be displayed by the browser. That is, the data contained in the second (update)  
7 page will be received, but no page will be displayed. Thus, the requested page  
8 comprises a "phantom" page (hence the dashed line representation of FIG. 2).  
9 When the Web server receives the request for the phantom page after operation  
10 (5), it will generate the requested data and will send it (otherwise formatted as an  
11 HTML page) to the browser. The sending operation is represented in FIG. 5 by the  
12 sixth entry, "6. SEND REQUESTED HTML DATA FOR PHANTOM PAGE" (Gao  
13 paragraph 0049, emphasis added).

14 6) Gao's JavaScript code causing the browser to request a second Web  
15 page indicates it is not a "re-request of the resource" that is, the first page  
16 requested by the user. Further, no user requests a non-displayed second page,  
17 known as a phantom page (Gao paragraph 0049). And what happened to the  
18 client-side script that appends a cookie value to the request in Gao? Gao  
19 discloses no cookie much less a cookie representing the last version of the first  
20 web page. The Office action limits its attention as to whether the Gao client-side  
21 script causes the client to automatically re-request the resource and it doesn't.

22  
23 7) Gao's paragraph 0050 says the client browser receives the requested  
24 update data, then the browser processes it according to the client-side script for  
25 display in the first web page. Could this update data be "the resource" first  
26 requested by the user? No, that is the first web page. This update data is not  
27 being "re-requested." This update data is being requested for the first time! As  
28 shown in Figure 5 and paragraphs 0046-0050, Gao requests the first web page  
29 once (entry "1") then requests the update data (or page) once (entry "5") then  
30 displays them together (entry "7"). Thus, Gao fails to disclose a client-side script  
such that the client "automatically re-requests the resource" as recited in claim 1.

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1       8)     It is legal error to ignore these claim limitations in analysis. See e.g.,  
2 *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) where the Federal  
3 Circuit held a reference did not render a claim prima facie obvious because *the*  
4 *examiner ignored that a claim limitation was absent in the reference.*

5       9)     In the amendment dated July 7, 2008, the applicants argued that  
6 Rangarajan does not disclose a client-side caching system because Rangarajan  
7 never uses the term "cache" or "caching" or "client cache" or "client-side cache."  
8 The Office action disagreed. On page 11, the Office action states "documents are  
9 kept/cached on the client" and on Rangarajan col. 7, lines 8-44, "there is an  
10 appropriate document sent to a client via a URL, which would be inherently  
11 stored in ... the client cache." In response to Office action on pages 11-12, we  
12 incorporate by reference the remarks of our amendment of July 7, 2008. Further,  
13 whether or not Rangarajan and Gao describe a client-side caching system misses  
14 the point: they fail to disclose the client-script function recited in claim 1 that  
15 solves the problem of reliably providing the last version of the resource while  
16 reducing latency and bandwidth usage.

17  
18 In view of the above, claim 1 is allowable over Rangarajan and Gao.

19 Claims 2-4 are allowable due to dependency on claim 1.

20  
21 Contrary to the Office action on page 4, Rangarajan fails to describe the response  
22 includes a non-displayed relatively small page and fails to describe a client-side  
23 script in the entity body of the response as recited in claim 3.

24  
25 Contrary to the Office action on pages 4-5, Rangarajan does not teach claim 5 for  
26 the reasons discussed in connection with claim 1.

27  
28 Contrary to the Office action on page 5, Rangarajan does not teach an application  
29 server inserting a client-side script into the entity body of the response as recited  
30 in claim 6. In fact, Rangarajan fails to even describe "a server sending a script to  
the client" as asserted on page 3 of the Office action. Rangarajan's Figure 1 and

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1 col. 7, lines 8-16 and col. 7, lines 31-44 describe the server-side (e.g., a CGI  
2 program, state management server 12, registration table 12, HTTP server 16) in a  
3 dotted box and the client-side as end user 24. Rangarajan's col. 9, line 65 - col. 10,  
4 line 11 describe the HTTP server as sending a cookie and a document to a client.

5 Claim 7 is separately patentable, since Rangarajan fails to describe the server  
6 setting the cookie value by determining the last modified time of each web page  
7 in the same class as the web page which is the subject of the request, and setting  
8 the cookie value to the maximum value of the last modified times.

9  
10 Claim 8 is separately patentable, since Rangarajan fails to describe the server  
11 setting the cookie value by determining the last modified time of each web page  
12 in the same class as the web page which is the subject of the request, and setting  
13 the cookie value to the maximum value of the last modified times.

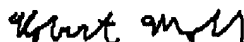
14 Contrary to the Office action on pages 8-8, Rangarajan and Gao do not teach the  
15 claims 9-14 for reasons similar to that discussed in connection with claim 1.  
16

17 Claim 14 is separately patentable, since Rangarajan fails to describe the server  
18 setting the cookie value by determining the last modified time of each page in the  
19 same class as the page which is the subject of the request, and setting the cookie  
20 value to the maximum value of the last modified times.

21  
22 Contrary to the Office action on pages 8-9, Rangarajan and Gao do not teach  
23 claims 15-17 as discussed in connection with claim 1.

24 Contrary to the Office action on page 10, Rangarajan and Gao do not teach claim  
25 18 for reasons similar to that discussed in connection with claim 1. It is  
26 respectfully submitted that the application is in condition for allowance.  
27

28 Respectfully Submitted,

29 

30 Robert Moll, Reg. No. 33,741